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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/791,596	03/02/2004	William L. Kraye		3446

7590 03/03/2006
William L. Kraye
1771 Helen Drive
Pittsburgh, PA 15216

EXAMINER

TRIEU, THERESA

ART UNIT	PAPER NUMBER
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3748

DATE MAILED: 03/03/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/791,596

Applicant(s)

KRAYER, WILLIAM L.

Examiner

Theresa Trieu

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 April 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 8-11 is/are allowed.
- 6) ☒ Claim(s) 1-7, 12-16 and 18-23 is/are rejected.
- 7) ☒ Claim(s) 17 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>03/02/04, 04/09/04</u> | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Receipt and entry of Applicant's Preliminary Amendment filed on April 9, 2004 is acknowledged.

Claims 11 and 17 have been amended. Claims 21-23 have been added. Thus, claims 1-23 are pending in this application.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

1. Claims 1-7, 11, 18-20, 22 and 23 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claims 1, 2, 6, 11, 18 and 22, the limitation "*angle θ* " renders the claims indefinite, because it is unclear what the angle θ is to be claimed by applicant. The applicant should clarify/define the angle θ . Regarding claim 2, the limitation "*substantially horizontal surface*" renders the claims indefinite because it is unclear that the horizontal surface of what element is as applicant has claimed. Applicant should note that with regard to the preamble directed to a support for "a substantially horizontal storage unit", that preambular recitations apply to claim 2 have not been given any patentable weight. See MPEP 2111.02 **PREAMBLE STATEMENTS RECITING PURPOSE OR INTENDED USE**. See also *In re Schreiber*, 128 F. 3d 1473, 1477, 44 USPQ2d 1429, 1431 (Fed. Cir. 1997).

Claims 3-5, 7, 19, 20 and 23 are rejected by virtue of their dependence on claims 1, 2, 6, 18 and 22.

Claim Suggestion

2. The claims are generally narrative and failing to conform with current U.S. practice; therefore, applicant is suggested to correct claims 2, 6 and 18 as following:

- Claim 2: "A support for a substantially horizontal storage unit comprising a gerotor guide of claim 1" should be rewritten as -- *A support for a substantially horizontal storage unit comprising a gerotor guide comprising a gerotor housing having an internal gerotor guide profile.....where g is a number from $0.1R$ to $0.5R$ and R is the radius of the large circle in the hypocycloid--* .

- Claim 6: "Turntable apparatus comprising a gerotor guide of claim 1" should be rewritten as -- *A support for a substantially horizontal storage unit comprising a gerotor guide comprising a gerotor housing having an internal gerotor guide profile.....where g is a number from $0.1R$ to $0.5R$ and R is the radius of the large circle in the hypocycloid--*.

- Claim 18: "Turntable apparatus comprising (a) a turntable of claim 12" should be rewritten as -- *Turntable apparatus comprising (a) a turntable being in the shape of a Reuleaux triangle and having a gerotor attached thereto, at least one of said turntable and said gerotor having a substantially planar bearing surface thereon --*.

Double Patenting

3. Claims 21-23 of this application conflict with claims 21-23 of Application No. 11/060,101. 37 CFR 1.78(b) provides that when two or more applications filed by the same applicant contain conflicting claims, elimination of such claims from all but one application may be required in the absence of good and sufficient reason for their retention during pendency in more than one application. Applicant is required to either cancel the conflicting claims from all

but one application or maintain a clear line of demarcation between the applications. See MPEP § 822.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 12-16 and 21 are rejected under 35 U.S.C. 102(b) as being anticipated by Krayner (Patent Number 5,152,592).

Regarding claims 12-16 and 21, as shown in Fig. 10, Krayner discloses a turntable in the shape of a Reuleaux triangle (159) and having a gerotor (100) attached thereto, a substantially planar bearing surface being on the underside of the turntable/gerotor (11); gerotor having three substantially identical lobes (106); the turntable being made from countertop material. Note that in claim 12, the limitation “for manual turning” is an intended use. A recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim. In a claim drawn to a process of making, the intended use must result in a manipulative difference as compared to the prior art. See *In re Casey*, 370 F.2d 576, 152 USPQ 235 (CCPA 1967) and *In re Otto*, 312 F.2d 937, 939, 136 USPQ 458, 459 (CCPA 1963).

Allowable Subject Matter

Claims 1-7 and 18-20 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action.

Claims 8-11 are allowed.

Claims 22 and 23 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Claim 17 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Prior Art

The IDS (PTO-1449) filed on March 02, 2004 and April 9, 2004 has been considered. An initialized copy is attached hereto.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure and consists of three patents: Merritt (U.S. Patent Number 2,994,277), de Dobo (U.S. Patent Number 3,955,903) and Akiyama et al. (Publication Number JP 11-267950), each further discloses a state of the art.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Theresa Trieu whose telephone number is 571-272-4868. The examiner can normally be reached on Monday-Friday 8:30am- 5:00pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas E. Denion can be reached on 571-272-4859. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

TT
February 27, 2006



Theresa Trieu
Primary Examiner
Art Unit 3748